

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEANNA LUMPKIN,

Plaintiff,

v.

FELICIAN SISTERS OF NORTH
AMERICA, INC.,

Defendant.

Case No. 22-12055

Honorable Nancy G. Edmunds

**ORDER GRANTING DEFENDANT’S MOTION FOR PROTECTIVE ORDER [25],
DENYING WITHOUT PREJUDICE DEFENDANT’S MOTION TO COMPEL [24], AND
EXTENDING BY 30 DAYS SCHEDULING ORDER FOR DISCOVERY AND
DISPOSITIVE MOTIONS**

This is an employment case for which the present scheduling order requires discovery to be completed by August 1, 2023. Before the Court are two discovery motions from Defendant, Felician Sisters of North America, Inc. (ECF Nos. 24, 25.) The nature of the motions is time-sensitive, so the Court did not order nor wait for a response from Plaintiff, Deanna Lumpkin.

In Defendant’s Motion to Compel Plaintiff’s Deposition (ECF No. 24), Defendant provides that it noticed Plaintiff’s deposition on March 15, 2023 “on a date and time and at a location to be agreed upon by counsel.” According to Defendant, Plaintiff did not provide any available dates to Defendant’s counsel although she did provide her available dates to a third-party by telephone, and that conversation was summarized on June 16, 2023, in an email on which Defendant’s counsel was copied. As Defendant had not heard back from Plaintiff regarding her availability, Defendant on June 16, 2023 unilaterally noticed Plaintiff’s deposition for July 10, 2023 at Defendant’s counsel’s office. Four days

later, Plaintiff informed Defendant that she was not available on July 10 and would not be attending the deposition.

Defendant's second motion seeks a protective order precluding the depositions duces tecum of several witnesses noticed by Plaintiff. (ECF No. 25.) On June 27, 2023, Plaintiff noticed four depositions for July 6, 2023 to "take place via zoom." The following day, Plaintiff reissued new deposition notices for two of the witnesses, changing the dates to July 11, 2023 and July 13, 2023, respectively, and changing the location to Plaintiff's counsel's office. Both notices require the deponents to produce "[a]ll documents which were sought in the prior discovery request (attached) that have not yet been produced," however no discovery requests were attached. Defendant takes issue with the lack of sufficient notice for these depositions, especially since two of the witnesses reside out-of-state; the fact that two of the depositions were unilaterally noticed by Zoom contrary to the Federal Rules; the fact that Plaintiff did not obtain subpoenas for the depositions of three of the witnesses whose attendance would require a subpoena; and the fact that the duces tecum notices do not list the documents to be produced.

It would seem to the Court that time and money could be saved by all if the parties would effectively communicate with one another regarding the depositions that need to be taken in this case. For now, Defendant's Motion for Protective Order (ECF No. 25) is **GRANTED** in that Plaintiff's June 27 and June 28 notices of depositions duces tecum shall not be enforced. Defendant's Motion to Compel (ECF No. 24) is **DENIED WITHOUT PREJUDICE**. The parties are hereby ordered to, **by no later than close of business on July 6, 2023**, confer with one another to agree upon suitable times, places, and locations for the necessary depositions. To accommodate the parties and encourage them to work

together to resolve their disputes, **the Court will extend by 30 days the scheduling order for discovery and dispositive motions only.** It is expected that the parties will find mutually agreeable dates for any remaining depositions within this time frame. Plaintiff shall also acquire and provide to Defendant any necessary subpoenas and a suitable description of any documents she expects to be produced by a deponent.

SO ORDERED.

s/ Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: June 30, 2023

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 30, 2023, by electronic and/or ordinary mail.

s/ Lisa Bartlett
Case Manager